

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 7673 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

NOORKHAN SAUKATKHAN MEWATI

Versus

STATE OF GUJARAT

Appearance:

MR RS SANJANWALA for Petitioners
PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE J.R.VORA

Date of decision: 21/12/1999

ORAL JUDGEMENT

#. Heard learned advocate Mr.R.S.Sanjanwala for the
petitioner. Rule. Learned A.P.P. Mr.Samir Dave waives
service.

#. For the reasons mentioned in the repeated decisions of this court in the following matters. the FIR in question i.e. CR No.833/99 of Gandevis Police Station, crime registered under Sec.70 (A) and 81 of the Prohibition Act is quashed as against the petitioners as well as any proceedings which might have taken in pursuance of this FIR are also quashed. Following is the list of decisions of this court quashing FIR in similar circumstances.

- (1) Special Criminal Application No.4 & 5 of 1986
As decided on 28.1.86
- (2) Criminal Misc.Application No.774/85 and 775/85
As decided on 1.7.85
- (3) Misc. Cri. Application No.4763/98
As decided on 27.11.98
- (4) Misc. Cri. Application Nos.2785/91, 2786/91, 2787/91 and 2788/91
As decided on 25.8.93
- (5) Misc. Cri. Application No.3041/95 and 3044/95
- (6) Cri. Misc. Application No.482/95
As decided on 10.2.95
- (7) Misc.Cri. Application No.750/96
As decided on 13.9.95
- (8) Misc. Cri. Application No.4392/99
As decided on 25.8.99
- (9) Cri. Misc. Application No.4483/99
As decided on 25.8.99
- (10) Cri.Misc.Application No.7606/99
As decided on 17.12.99

#. A point of controversy is raised that the police filed the FIR in question and registered case because bills and invoice as mentioned in the FIR was not shown to the police.

#. In para 3 of the petition it is clearly stated that the petitioner had shown relevant documents to the police officer concerned. It is not understood that why the petitioner would not show the bills and invoices to the police officer, if they possess the same and have produced the same in this court. Therefore especially when these documents would save the petitioner from predicament ensuing the reasons mentioned in the FIR for registering offences are ex facie improbable.

#. While directing the quashing of FIR and proceeding in pursuance of the said FIR so far as the muddamal is concerned the following order is passed.

- (1) The muddamal i.e. gur seized from the truck in the

above said FIR in question be released to the petitioner no.3 on giving his undertaking to the court of Magistrate concerned, that the goods shall not be stored or used or consumed in Gujarat State territory and will be taken to its destination, out of the limit of the State of Gujarat.

(2) The petitioner shall carry goods in question under the police squad to be given by the police authority at the cost of the petitioner till the limit of State of Gujarat.

(3) Truck bearing Register No. MP 09 KB 3574 shall be released in favour of petitioner no.1 after appropriate verification.

#. Rule is made absolute to that extent. Direct Service is permitted.

#. While parting with this judgement it is observed that a dismayed and very serious state of affairs is noticed that as many as 10 repeated applications have been decided by this High Court as mentioned above, even then repeatedly the complaints are being filed by the police in clear defiance of the ratio laid down in above decisions. In the result this attitude of the police make the parties rush to the court ultimately contributing to the docket explosion. Not only that but it clearly appears that the authority of the Law of the land is not followed. For these reasons the copy of this judgement be immediately served upon the Secretary Home Department, State of Gujarat and Inspector General of Police, State of Gujarat for doing needful in the matter. Within one month of receipt of this judgment the Secretary Home Department and the Inspector General of Police shall file compliance of the needful action taken by them to this court.

kks